

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION

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U.S. DISTRICT COURT
MIDDLE DISTRICT / ALA.

IN RE:

SHATANYA S. WARD,

PLAINTIFF,

vs.

UNIFUND CCR PARTNERS,

DEFENDANT.

CASE NO:

1:06CV408-WKW
JURY DEMAND

COMPLAINT

I. INTRODUCTION

1. This is a Complaint for damages, for actual and statutory damages, brought by the Plaintiff, Shatanya S. Ward, against the Defendant, Unifund CCR Partners, for Defendant's violation of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq (hereinafter, "FDCPA").

II. JURISDICTION AND VENUE

2. Jurisdiction of this Court arises under 15 U.S.C. § 1692k(d), 28 U.S.C. § 1337.
3. Venue in this district is proper in that the Defendant regularly transacts business here and the conduct complained of occurred here.

III. PARTIES

4. Plaintiff, Shatanya S. Ward, is a natural person residing in Houston County, Alabama.
5. Defendant, Unifund CCR Partners (hereinafter "Unifund"), is a general partnership created under Delaware law. Its principal place of business is 10625 Techwoods Circle, Cincinnati, Ohio 45242. Defendant, Unifund is a debt collector as defined by the FDCPA. 15 U.S.C. 1692a(6).

IV. FACTUAL ALLEGATIONS

6. On May 9, 2005, the Defendant commenced a lawsuit in the Small Claims Court of Houston County, Alabama bearing case number SM 2005-1526. A copy of the "Statement of Claim" is attached hereto as Exhibit "A."
7. The alleged debt in which Defendant, Unifund, commenced suit was originally owed to Gordon's Jewelers.
8. The alleged debt was for personal, family, or household purposes.
9. The "Statement of Claim" alleged a consumer debt in the amount of \$1,255.44 for a "verified account stated."
10. The Gordon's account, which is the purported underlying debt to the Unifund Statement of Claim, originated beyond the expiration of the statute of limitations.
11. The Defendant, Unifund, by filing the collection lawsuit on May 9, 2005, against the Plaintiff, attempted to collect a debt known to be outside of the Alabama statute of limitations.
12. The Plaintiff, Shatanya S. Ward, allowed a default judgment to enter and appealed the Small Claims action to the Circuit Court of Houston County, Alabama Civil Division bearing case number CV 2005-473. Said case is currently pending before the Honorable Edward Jackson, in the Circuit Court of Houston County, Alabama Civil Division.
13. To the best of the Plaintiff's knowledge, information, and belief, she opened a Gordon's Jewelers account in approximately 1996.
14. On or about December 28, 2004, the Defendant purchased account number 6035253011768463 from Gordon's Jewelers.
15. At the time of purchase, the above-referenced account was in default by three (3) years or more.

16. The Defendant reported, on the Plaintiff's consumer credit file, that the Gordon's Jewelers account was opened in July, 2004, and closed in August, 2004.
17. By reporting that the Gordon's Jewelers account was opened in July, 2004, and closed in August, 2004, the Defendant was reporting false credit information which Defendant knew to be false.

**COUNT I - VIOLATION OF 15 U.S.C. § 1692d
Harassment or abuse.**

18. Plaintiff, Shatanya S. Ward, adopts and incorporates paragraphs 1 through 17 as if fully set out herein.
19. 15 U.S.C. § 1692d prohibits the Defendants from engaging "in any conduct the natural consequences of which is to harass, oppress, or abuse any person in connection with the collection of a debt."
20. The Defendant, Unifund's, filing of a time-barred debt constitutes harassment, oppression, and abuse of the Plaintiff.
21. The Defendant, Unifund, knowingly filed the time-barred debt for the sole purpose of harassing, oppressing, or abusing the Plaintiff.
22. The Defendant's violation of 15 U.S.C. § 1692d renders it liable for damages, statutory damages, costs, and reasonable attorney fees. 15 U.S.C. § 1692k.

**COUNT II - VIOLATION OF 15 U.S.C. § 1692e(2)
Falsely representing the character, amount,
or legal status of any debt.**

23. Plaintiff, Shatanya S. Ward, adopts and incorporates paragraphs 1 through 22 as if fully set out herein.
24. 15 U.S.C. § 1692e(2)(A) prohibits debt collectors from using false representations as to the character, amount, or legal status of any debt.
25. The Defendant violated this portion of the FDCPA by filing a lawsuit on a time-barred debt.
26. The Defendant's violation of 15 U.S.C. § 169e(2) renders it liable for damages, statutory damages, costs, and reasonable attorney fees. 15 U.S.C. § 1692k.

COUNT III - VIOLATION OF 15 U.S.C. § 1692e(8)
Reporting false credit information.

27. Plaintiff, Shatanya S. Ward, adopts and incorporates paragraphs 1 through 26 as if fully set out herein.
28. 15 U.S.C. § 1692e(8) prohibits the Defendant from communicating to any person credit information which the Defendant knows to be false.
29. The Defendant violated § 1692e(8) by reporting false credit information pertaining to the Gordon's Jewelers account.
30. The Defendant's violation of 15 U.S.C. § 1692e(8) renders it liable for damages, statutory damages, costs, and reasonable attorney fees. 15 U.S.C. § 1692k.

COUNT III - VIOLATION OF 15 U.S.C. § 1692e(10)
The use of false representation or deceptive means to collect or attempt to collect any debt.

31. Plaintiff, Shatanya S. Ward, adopts and incorporates paragraphs 1 through 30 as if fully set out herein.
32. 15 U.S.C. § 1692e(10) prohibits the use of any false representation or deceptive means to collect or attempt to collect any debt.
33. The Defendant violated § 1692e(10) by commencing a lawsuit on a time-barred debt. The use of the State Court of Alabama to collect on a time-barred debt constitutes false representation or deceptive means to collect or attempt to collect a debt.
34. The Defendant's violation of 15 U.S.C. § 1692e(10) renders it liable for damages, statutory damages, costs, and reasonable attorney fees. 15 U.S.C. § 1692k.

COUNT IV - VIOLATION OF 15 U.S.C. § 1692f
Unfair practices.

35. Plaintiff, Shatanya S. Ward, adopts and incorporates paragraphs 1 through 33 as if fully set out herein.
36. 15 U.S.C. § 1692f prohibits the debt collector from using any unfair or unconscionable means to collect or attempt to collect any debt.

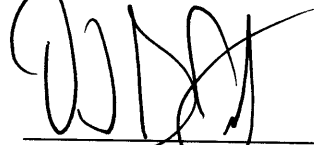
37. The Defendant violated § 1692f by filing a lawsuit on a time-barred debt.
38. The filing of the lawsuit on the time-barred debt constitutes either unfair or unconscionable means.
39. The Defendant's violation of 15 U.S.C. § 1692f renders it liable for damages, statutory damages costs, and reasonable attorney fees. 15 U.S.C. § 1692k.

WHEREFORE, Plaintiff, Shatanya S. Ward, prays this Honorable Court enter judgment against the Defendant, Unifund CCR Partners, for the following:

- 1) Actual damages;
- 2) Maximum statutory damages of \$1,000.00 pursuant to 15 U.S.C. § 1692k;
- 3) Costs and reasonable attorney fees; and,
- 4) For such other and further relief as may be just.

Respectfully submitted,

BROCK & STOUT



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